

NOV 16 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 09-90026, 09-90031,
09-90044 and 09-90045

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that two district judges and a magistrate judge made various improper substantive and procedural rulings in two civil cases. These charges relate directly to the merits of the judges' rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not the proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that one of the district judges was biased against him on account of his race. In addition, complainant believes that the magistrate judge engaged in an improper ex parte conversation with defendants. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud.

Council 2009). Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant's allegations against defense counsel are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.